

**IN THE CLAIMS**

Please amend the claims as follows, a markup copy follows this clean copy as required under 37 CFR 1.121:

**CLEAN COPY**

45. (Once Amended) A method of measuring a rate of encoding for digital content, the method comprising the steps of:

selecting an encoding algorithm and a bit rate;

encoding a selected sample of digital content for a predetermined period of time; and

calculating a measured rate of encoding using the selected sample and the predetermined period of time, so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate which has been selected.

46. (Once Amended) The method as defined in claim 45, further comprising the step of: displaying the measured rate of encoding during the encoding of the digital content.

47. (Once Amended) The method as defined in claim 45, further comprising the steps of:

storing the measured rate of encoding; and

associating the measured rate of encoding with a specific encoding bit rate and a specific encoding algorithm.

48. (Once Amended) The method as defined in claim 46, wherein the step of displaying the measured rate of encoding includes displaying the percentage of digital content encoded as compared to the total amount of digital content to be encoded.

49. The method as defined in claim 46, wherein the step of displaying the measured rate of encoding includes displaying the amount of time remaining to encode the total amount of digital content to be encoded.

50. (Once Amended) A method of measuring a rate of encoding for digital content, the method comprising the steps of:

determining if a previously calculated measured rate of encoding has been stored for a specific encoding algorithm and a bit rate and if the previously calculated measured rate of encoding is stored then performing the sub-steps of:

retrieving a previously calculated measured rate of encoding so as to provide an interim rate of completion for a subsequent process of encoding the content with the specific encoding algorithm and the bit rate;

encoding digital content;

calculating a current measured rate of encoding for the encoding of the digital content so as to provide an interim rate of completion for encoding; and

updating the previously calculated measured rate of encoding using the current measured rate of encoding.

51. (Once amended) The method as defined in claim 50, wherein the step of determining if a previously calculated measured rate of encoding has been stored for a specific encoding algorithm and a bit rate and if the previously calculated measured rate of encoding is not stored then performing the sub-steps of:

selecting an encoding algorithm and a bit rate;

encoding a selected sample of digital content for a predetermined period of time;

calculating a measured rate of encoding using the selected sample and the predetermined period of time; and

storing the measured rate of encoding.

52. (Once Amended) The method as defined in claim 50, further comprising the step of using the previously calculated measured rate of encoding for displaying the measured rate of encoding during the encoding of the digital content.

53. (Once Amended) The method as defined in claim 50, wherein the step of updating the previously calculated rate of encoding includes the sub-steps of:

averaging the previously calculated measured rate of encoding and the current measured rate of encoding; and

storing the measured rate of encoding which has been averaged as a new value for the previously calculated measured rate of encoding.

54. (Once Amended) The method as defined in claim 50, wherein the step of updating the previously calculated measured rate of encoding includes the sub-steps of:

averaging the previously calculated measured rate of encoding and the current measured rate of encoding; and

storing the average measured rate of encoding as a new value for the previously calculated measured rate of encoding if the measured rate of encoding does not deviate from the previously calculated measured rate of encoding by a configured threshold.

55. (Once Amended) The method as defined in claim 53, wherein the sub-step of storing the average measured rate of encoding includes associating the previously calculated measured rate of encoding with a specific encoding bit rate and a specific encoding algorithm.

56. (Once Amended) The method as defined in claim 50, further comprising the step of displaying the measured rate of encoding during the encoding of the digital content.

57. (Once Amended) A method of measuring a rate of encoding for digital content, the method comprising the steps of:

selecting an encoding algorithm and a bit rate;

encoding a selected sample of digital content; and

calculating a measured rate of encoding using the selected sample and an amount of time it took to encode the selected sample so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and a bit rate which has been selected.

58. (Once Amended) A system for measuring a rate of encoding for digital content, the system comprising:

- a receiver for receiving digital content to be encoded;
- an encoder for encoding a selected sample of the digital content for a predetermined period of time using an encoding algorithm and bit rate; and
- means for calculating a measured rate of encoding using the selected sample of digital content and the predetermined period of time so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate.

59. (Once Amended) The system as defined in claim 58, further comprising a display for displaying the measured rate of encoding during the encoding of the digital content.

60. (Once Amended) The system as defined in claim 58, further comprising:

- storage for storing the measured rate of encoding; and
- means for associating the measured rate of encoding with a specific encoding bit rate and a specific encoding algorithm.

61. The system as defined in claim 59, further comprising means for displaying the percentage of digital content encoded as compared to the total amount of digital content to be encoded.

62. The system as defined in claim 59, further comprising means for displaying the amount of time remaining to encode the total amount of digital content to be encoded.

63. (Once Amended) A system for measuring a rate of encoding for digital content, the system comprising:

means for retrieving a previously calculated measured rate of encoding so as to provide an interim rate of completion for a subsequent process of encoding the content with a specific encoding algorithm and a bit rate;

an encoder for encoding digital content;

means for calculating a current measured rate of encoding of the digital content; and

means for updating the previously calculated measured rate of encoding based on the current measured rate of encoding.

64. (Once Amended) The system as defined in claim 63, wherein the means for retrieving a previously calculated measured rate of encoding includes means for associating the previously calculated encoding rate with a specific encoding bit rate and a specific encoding algorithm.

65. (Once Amended) The system as defined in claim 63, further comprising a display for displaying the measured rate of encoding during the encoding of the digital content using the previously calculated measured rate of encoding.

66. (Once Amended) The system as defined in claim 63, wherein the means for updating the previously calculated measured rate of encoding comprises:

means for averaging the previously calculated measured rate of encoding and the current measured rate of encoding; and

storage for storing the previously averaged encoding rate as the previously calculated encoding rate.

67. (Once Amended) The system as defined in claim 63, wherein the means for updating the previously calculated measured rate of encoding comprises:

means for averaging the previously calculated measured rate of encoding and the current measured rate of encoding if the current measured rate of encoding does not deviate from the previously calculated measured rate of encoding by the configured threshold; and

storage for storing the previously averaged measured rate of encoding as the previously calculated measured rate of encoding.

68. (Once Amended) The system as defined in claim 66, wherein the storage includes means for associating the previously calculated measured rate of encoding with a specific encoding bit rate and a specific encoding algorithm.

69. The system as defined in claim 65, wherein the display includes means for displaying the percentage of digital content encoded as compared to the total amount of digital content to be encoded.

70. The system as defined in claim 65, wherein the display includes means for displaying the amount of time remaining to encode the total amount of digital content to be encoded.

71. (Once Amended) A system for measuring a rate of encoding for digital content, the system comprising:

a receiver for receiving digital content to be encoded;

an encoder for encoding a selected sample size of the digital content; and

means for calculating a measured rate of encoding rate using the selected sample size of digital content and the period of time it took to encode the selected sample size of digital content so as to provide an interim rate of completion for a subsequent process of encoding the content with an algorithm and a bit rate which has been selected.



72. (Once amended) A computer readable medium containing program instructions for determining an encoding rate for digital content, the program instructions comprising instructions for:

selecting an encoding algorithm and a bit rate;  
encoding a selected sample of digital content for a predetermined period of time; and  
calculating a measured rate of encoding using the selected sample and the predetermined period of time so as to provide an interim rate of completion for a subsequent process of encoding the content with the algorithm and the bit rate which has been selected.

73. (Once Amended) The computer readable medium in claim 72 wherein in the step of calculating further comprising calculating a measured rate of encoding  $R_{\text{CURRENT}}$  using a length of the selected sample divided by the predetermined period of time.

74. (Once Amended) The computer readable medium in claim 72 further comprising the instruction for displaying the measured rate of encoding during the encoding of the digital content.

75. (Once Amended) The computer readable medium in claim 72 further comprising the instruction for:

storing the measured rate of encoding; and  
associating the measured rate of encoding with a specific encoding bit rate and a specific encoding algorithm.

76. (Once Amended) The computer readable medium in claim 74, wherein the instruction for displaying the measured rate of encoding includes displaying the percentage of digital content encoded as compared to the total amount of digital content to be encoded.

77. (Once Amended) The computer readable medium in claim 74, wherein the instruction for displaying the measured rate of encoding includes displaying the amount of time remaining to

encode the total amount of digital content to be encoded and displaying the amount of time remaining to encode the total amount of digital content to be encoded.

78. (Once Amended) A computer readable medium containing program instructions for [determining]measuring a[n] rate of encoding[ rate] for digital content, the program instructions comprising instructions for:

encoding a selected sample of digital content; and

calculating an encoding rate using a selected sample size and the amount of time it took to encode the selected sample so as to provide an interim rate of completion for a subsequent process of encoding the content with an algorithm and a bit rate which has been selected.